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September 24, 2021

VIA ECF

Judge Paul A. Engelmayer
United States District Court for the Southern
District of New York
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: United States v. Shawn McCoy, 1:02-cr-01372-PAE-3 (S.D.N.Y.) –
Update to the Court and Motion to Withdraw as Counsel

Dear Judge Engelmayer:

My colleague Andrew Marks and I are *pro bono* counsel to Defendant Shawn McCoy, and we write respectfully to request the Court's permission, pursuant to Local Criminal Rule 1.2 and Local Civil Rule 1.4, to withdraw as Mr. McCoy's attorneys.

In the summer of 2020, Mr. Marks and I agreed to represent Mr. McCoy on a limited, *pro bono* basis. Specifically, we agreed to represent Mr. McCoy solely in connection with an emergency motion in the Southern District of New York for compassionate release based on the dangers posed by the coronavirus, particularly given his medical history. We both entered notices of appearance indicating the limited nature of our representation. *See* Dkts. 557 and 558 (each of Abensohn and Marks "hereby appears ... for the limited purpose of bringing an emergency motion for compassionate release"). In late summer and early fall of 2020, we prepared and submitted an emergency motion on Mr. McCoy's behalf. *See* Dkts. 559-561; 563-565. On September 14, 2020, Judge Pauley heard oral argument and denied the motion orally. It appears that no order was subsequently entered on the docket.

Approximately six months later, on February 17 and March 17, 2021, Mr. McCoy filed two *pro se* motions again seeking to reduce his sentence. Dkts. 568 and 570. The Government filed no opposition, and on August 10, Mr. McCoy filed a further motion seeking an update on his two pending motions, and also requesting that counsel be appointed for purposes of litigating these

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motions. Dkt. 576. It is our understanding that Mr. McCoy chose to file these motions *pro se* because he had assumed that our representation had concluded with the denial of his 2020 motion for compassionate release. Mr. McCoy has informed us, however, that upon contacting the courthouse, a clerk informed him (or someone calling on his behalf) that counsel would not be appointed to assist him to pursue his pending motions because we remain counsel of record.

We respectfully submit that good cause exists to grant this motion to withdraw. Our representation of Mr. McCoy has ended per our express prior understanding with our client. *See* N.Y.R. of Prof. Conduct 1.16(c)(10) (“[A] lawyer may withdraw from representing a client when ... the client knowingly and freely assents to termination of the employment.”). In addition, our withdrawal may enable Mr. McCoy to obtain new *pro bono* counsel to pursue his two outstanding motions. *See id.* 1.16(c)(1) (allowing withdrawal if it “can be accomplished without material adverse effect on the interests of the client”). And prohibiting withdrawal under these circumstances could discourage future *pro bono* efforts. *See id.* 1.16(c)(12) (allowing withdrawal if “the lawyer believes in good faith, in a matter pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal”).

For the above reasons, we respectfully request permission to withdraw as *pro bono* attorneys to Mr. McCoy.

Very truly yours,

/s/ Adam M. Abensohn

Adam M. Abensohn

cc: All Counsel of Record (via ECF)

GRANTED. The Clerk of Court is requested to terminate the motion at Dkt. No. 580.

SO ORDERED.

9/24/2021



PAUL A. ENGELMAYER
United States District Judge